



APR / 3711

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April 20, 2004

TECHNOLOGY CENTER R3700

APR 30 2004

United States Patent & Trademark Office  
Group Art Unit 3711  
Attn: William Pierce  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Re: Notification of Non-Compliance with 37 CFR 1.192(c)  
Applicant: Addington, et al.  
Application No.: 09/396,530

Dear Mr. Pierce:

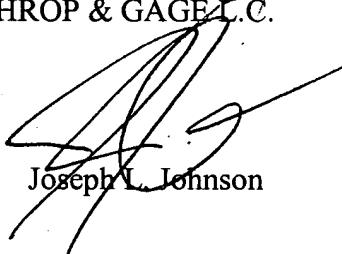
I am enclosing herewith a Notification of Non-Compliance I received with an April 14, 2004, mailing regarding one of my clients. The referenced Applicant Addington, Application No. 09/396,530 is not my client. It appears this was inadvertently placed in the envelope with documents relating to my client.

Should you have any questions, my direct line is 417-877-5902.

Cordially,

LATHROP & GAGE, L.C.

By:

  
Joseph L. Johnson

JLJ:dw  
Enclosure

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TECHNOLOGY CENTER R3735

APR 30 2004

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APR 27 2004  
TRADEMARK OFFICE  
SCA 3735  
Notification of Non-Compliance  
With 37 CFR 1.192(c)

Application No.	Applicant(s)	
09/396,530	ADDINGTON ET AL.	
Examiner	Art Unit	
William M Pierce	3711	

The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on \_\_\_\_\_ is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three TIME PERIODS: (1) ONE MONTH or THIRTY DAYS from the mailing date of this Notification, whichever is longer; (2) TWO MONTHS from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.

1.  The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2.  The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3.  At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4.  The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5.  The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6.  A single ground of rejection has been applied to two or more claims in this application, and
  - (a)  the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b)  the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7.  The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8.  The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9.  Other (including any explanation in support of the above items):

With respect to items 2-4 and 8 above, Appellant's statement of the status of the claims is contradictory. In his section III he states that, "Claims 14-30 and 4 are pending in this case." He then goes on to make a first contradictory statement that, "claims 3 and 4 and 14-30 have been finally rejected." and a second contradictory statement that, "claims 1-13 are cancelled". In his copy of appealed claims he presents claims 3 and 4, even though he explicitly states that these claims have been cancelled in his section III. From these errors, one cannot determine which claims appellant wishes to place before the Board. With respect to item 6 above, if an appealed ground of rejection applies to more than one claim and appellant considers the rejected claims to be separately patentable, 37 CFR 1.192(c)(7) requires appellant to state that the claims do not stand or fall together. While on pg. 4, ln. 2 of the Brief, appellant states the claims, "should be grouped separately", this falls short of setting forth which claims stand or fall together. While in the absence of a separate statement that the claims do not stand or fall together, the Board panel assigned to the case will normally select the broadest claim in a group and will consider only that claim, appellant is asked to appropriately define the grouping of the claims in this Notification since there are other issues that render the Brief defective. See MPEP 1206.

  
WILLIAM M. PIERCE  
PRIMARY EXAMINER